

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION**

CRAIG DAWDY,

Plaintiff,

v.

LARRY ALLEN, et al.,

Defendants.

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No. 2:17-CV-49-AGF

**MEMORANDUM AND ORDER**

This matter is before the Court on the pro se Plaintiff's motion (ECF No. 34) for leave to file a third amended complaint. Plaintiff filed his motion before the deadline set forth in the Case Management Order and properly attached a proposed amended complaint. Plaintiff asserts that he seeks to add an additional Defendant, Doug Worsham, who is the Supervisor of Religious/Spiritual Programming for the Missouri Department of Corrections, and to correct errors. However, Plaintiff alleges that he does not seek to plead additional counts or to make other substantive changes to his previously-filed complaint. Defendants have not responded to the motion, and the time to do so has passed.

Pursuant to Federal Rule of Civil Procedure 15(a)(2), the Court will grant Plaintiff's motion for leave to amend. However, notwithstanding Plaintiff's representation that he did not intend to add any claims or substantively change his allegations, it is not clear to the Court whether the proposed third amended complaint attempts to re-plead claims that the Court previously dismissed. For example, the Court previously dismissed Plaintiff's Eighth

Amendment claims.<sup>1</sup> ECF No. 7. The Court also dismissed, based on Eleventh Amendment immunity, any claims against state official defendants named in their official capacities for monetary damages. ECF No. 27. These claims are still referenced in the proposed third amended complaint. To the extent that Plaintiff's proposed third amended complaint attempts to re-plead such claims, the claims are again dismissed for the reasons previously stated.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's motion for leave to file a third amended complaint is **GRANTED**. ECF No. 34. The Clerk of Court shall detach and docket the third amended complaint, which was attached to the motion for leave (ECF No. 34-1).

**IT IS FURTHER ORDERED** that, to the extent the third amended complaint attempts to re-plead any claims that the Court previously dismissed, such claims are again **DISMISSED**.

**IT IS FURTHER ORDERED** that the Clerk of Court shall issue process or cause process to issue upon the third amended complaint pursuant to the service agreement the Court maintains with the Missouri Attorney General's Office as to defendant Doug Worsham.

  
AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 29th day of May, 2019.

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<sup>1</sup> The Court also dismissed without prejudice Plaintiff's claims against Defendant Shelly Orf, but the Court thereafter granted Plaintiff's motion for leave to amend his complaint and re-plead claims against this Defendant. ECF No. 13.